

2006 ANNUAL REPORT



**The Departmental Disciplinary Committee
of the Appellate Division of
the Supreme Court of
the State of New York,
First Judicial Department**

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To the Bar and the Public:

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

PAUL J. CURRAN, ESQ.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

May 10, 2007

To the Bar and the Public:

As this Annual Report for 2006 reflects, the Committee and its dedicated Staff, headed by Chief Counsel, Thomas J. Cahill, have continued to carry out their duties fairly and effectively. In doing so, the Committee has served to protect the public from unethical lawyers, while also insuring that charges of misconduct by lawyers are investigated thoroughly and acted upon fairly. The Committee has continued to resolve more matters than it received in 2006, and has also reduced the time required to resolve matters. The Committee has achieved this salutary result without detriment to its obligation to address fully all complaints.

The Committee's ten Hearing Panels are fully staffed, and its membership, which also includes non-lawyers, represents virtually every segment of the practicing bar. The Panel members, who are appointed by the Court, serve without pay and devote significant time to the Committee's work. They continue to serve diligently and effectively.

In furtherance of its statutory mandate, the Policy Committee conducted separate in depth surveys of Committee members, Staff Counsel, and a large number of counsel for respondents and complainants. These surveys, conducted over some two years, involved extensive inquiries concerning the Committee's work and how this work might be improved. After the result of this large-scale undertaking were analyzed, the Policy Committee recently reported to the Court on the results of its work and made recommendations designed to improve the Committee's operations. We hope that this year will see the results of this large-scale project.

The Committee is grateful to Justice John T. Buckley, the Court's Presiding Justice in 2006, and his judicial colleagues, the Court's Liaison Committee with this Committee as well as Chief Clerk Catherine O'Hagan Wolfe and her staff. All contributed significantly to the Committee's work in 2006.

Sincerely,



Paul J. Curran
Chairman

CHIEF COUNSEL'S REPORT

In 2006, as in the last four years, the Committee resolved more cases than it received and, as a result, reduced its caseload and processed complaints more expeditiously. In addition to maintaining the quality of the Staff's work, the Chairman and the Policy Committee have been and continue to be concerned about the length of time required to resolve matters. As a result, the Staff reduced the time to process, review and resolve the complaints we receive, and we expect to continue reducing the time required to resolve matters in a fair and thorough manner.

We would not have been able to achieve these results without the continued support of the lawyer members of the Committee, who approved the dismissal of over 2000 matters in 2006, and also reviewed approximately 300 requests for reconsideration in addition to their service on the Committee's Hearing Panels. We also appreciate the work of the Chairman and the Policy Committee for their expeditious review of Staff's petitions to the Court and recommendations for approval for private admonitions and formal charges.

During 2006, the Staff of the Committee also spent considerable effort on bringing disciplinary action against lawyers who have failed to comply with the State's registration requirements. As a result the Court suspended 815 attorneys.

We are very fortunate that in imposing public discipline, the Court writes decisions which provide the members of the Bar with the facts of the misconduct justifying a particular sanction. As a result of the Court's very thorough decisions, the lawyers in this Department are made aware of the disciplinary rules, the Committee's procedures, and, more importantly, the consequences of misconduct. That education of the Bar has had an effect which can only assist the Committee in carrying out its duties. We are grateful for their efforts and wish to acknowledge the continued support of the Court, particularly the Associate Justices who in 2006 served on the Liaison Committee and Presiding Justice John T. Buckley.



Thomas J. Cahill
Chief Counsel

COMMITTEE MEMBERS

Committee members are unpaid volunteers appointed by the Court who fulfill both adjudicative and executive functions. Most significantly, they decide, after appropriate investigation by Staff, whether formal charges should be brought against an attorney, whether a private admonition should be issued, or whether the complaint should be dismissed. If it is decided to formally charge an attorney with misconduct, the Court appoints a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact and conclusions of law and a recommendation for sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent determination to the Court as to liability and sanction. Thereafter, the Court makes the final determination on both liability and sanction.

In 2006, 52 Committee members served on ten different Hearing Panels of approximately five members each, composed usually of four lawyers and one non-lawyer.

Eleven other members of the Committee, including two non-lawyers, served on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including possible rule changes, setting priorities and administrative issues. Included on the Policy Committee, as Special Counsel appointed by the Court, are Haliburton Fales, 2d,

Esq., Charlotte Moses Fischman, Esq., Martin R. Gold, Esq., William Francis Kuntz, II, Esq., Roy L. Reardon, Esq., and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession and law firms of varying sizes, plus 13 non-lawyer members. The latter group, including business executives, engineers, a psychotherapist, a writer, and former educator serve the Committee with dedication and energy. Below are brief biographies of all Committee members, highlighting their diverse accomplishments:

Paul J. Curran (Chairman)

Mr. Curran is Special Counsel with the firm of Kaye Scholer LLP. He graduated from Georgetown University and Fordham University Law School (LL.B.). He has an honorary LL.D. from New York Law School. He has served as United States Attorney, Southern District of New York; Special Counsel, U.S. Department of Justice; Chairman, Mayor's Advisory Committee on the Judiciary; and is a Fellow of the American College of Trial Lawyers.

Dominic F. Amorosa

Mr. Amorosa is a sole practitioner primarily involved in defense of white collar criminal matters. He graduated from Seton Hall University and Rutgers Camden Law School. Following

graduation he served two years as Assistant United States Attorney in the District of New Jersey and in 1974 became an Assistant United States Attorney in the Southern District of New York where he served as Chief of the Narcotics Unit from 1997-1998 and Chief of the Organized Crime Unit.

Eugene F. Bannigan

Mr. Bannigan graduated from Brooklyn Law School. He is counsel to the firm of Nixon Peabody LLP. Mr. Bannigan served as an Assistant United States Attorney, Southern District of New York and Chief of the Narcotics and Dangerous Drugs Section. Mr. Bannigan's practice concentrates on complex business litigation and securities and insurance law. He is a member of the Association of the Bar of the City of New York and the American Bar Association.

Patrick H. Barth

Mr. Barth is a sole practitioner engaged in trial and appellate litigation with an emphasis on commercial litigation, employment disputes, and personal injury matters. He is a graduate of Brooklyn College and New York University Law School where he served as Managing Editor of the New York University Law Review. Following his graduation he served as law clerk to Judge Harry E. Kalodner, United States Circuit Judge for the United States Court of Appeals for the Third Circuit, and as an

Associate at Simpson, Thacher & Bartlett. In 1975 he was appointed an Assistant United States Attorney for the Southern District of New York where he represented the government in civil litigation until 1977, when he was an appointed Chief Appellate attorney and in 1980, appointed Chief of the Civil Division. In 1981, he formed a law firm with another former Assistant United States Attorney until 1988. He serves on the Mediation Panel for the United States District Court for the Southern District of New York.

Jane Eisner Bram, Ph.D.

Dr. Bram is in private practice as a psychoanalytic psychotherapist, specializing in adults and couples. She is a graduate of New York University and received her doctorate from the New York University School of Social Work. She serves on the New York University Board of Trustees and is an executive of the Alumni Council.

Douglas W. Brandrup

Mr. Brandrup is a senior partner in the firm of Griggs, Baldwin & Baldwin. He graduated from Boston University Law School. He has served on private charitable organizations, such as The Baldwin Foundation and is the current president of the Metropolitan Club of New York. Mr. Brandrup is a member of the American and New York State Bar Associations.

Christopher E. Chang

Mr. Chang is in private practice in his own firm. He was an Assistant District Attorney in New York County from 1978 to 1982. He is a graduate of New York University and Cornell Law School. He served as a member of the Chief Judge's Committee on the Profession and the Courts ("The Craco Commission") from 1993 through 1995. He is a member of the Board of Directors of the Legal Aid Society, the New York County Lawyers' Association and the New York State Bar Association.

Ann J. Charters

Ms. Charters is an economic and political writer. She graduated from the University of Illinois (M.A. Political Science Major). Her areas of expertise involve covering presidential elections, major economic policy shifts, political upheavals and corporate activities. Ms. Charters served as Venezuelan correspondent for the international edition of Business Week, and as correspondent for Financial Times, among others.

Lisa D. Correll

Ms. Correll is a graduate of Tulane University and received a Masters Degree in Education from New York University. She served as the administrator, office manager and paralegal for the Law Offices of P. Kent Correll from 1993 to 2004. Prior to that position, she worked as a teacher at Montessori Schools.

Denis F. Cronin

Mr. Cronin is a partner with the firm of Cronin & Vris. He graduated from Fordham University School of Law. Mr. Cronin is currently a member of Colgate University's Board of Trustees and past Chairman of the National Special Gifts Committee; Chairman, Board of Trustees, Buckley Country Day School and former Chairman of its Capital Campaign; President (2002-2004) of Fordham Law Alumni Association; and Trustee of Fordham Law School Alumni Association.

Cheryl Davis

Ms. Davis is Vice President and Counsel to AXA Financial Inc. She is a graduate of Bard College and of Yale Law School. She serves on the New York State Bar Association Committee on Lawyer Alcoholism and Substance Abuse and on the Committee on Lawyer Alcoholism for the Association of the Bar of the City of New York.

Jean E. Davis

Ms. Davis is a graduate of Hunter College (B.S., Nursing), and received a Master's Degree from Teachers College, Columbia University and a Juris Doctor from the University of Wisconsin Law School. After a multifaceted career in nursing, she served as counsel for interpretations and advice in the Office of the Solicitor/Civil Rights Division, U.S. Department of Labor;

Advisor to the President, Drexel University; Director of Affirmative Action, and later, Chief of Staff to the President at Brooklyn College, City University of New York (CUNY); and as Special Assistant to the Chief Operating Officer at City College, CUNY. Retired from her dual careers, she currently engages in a number of volunteer activities including serving as a volunteer officer of the Harlem Hospital Center Community Advisory Board.

Paul F. Doyle

Mr. Doyle is a graduate of the College of the Holy Cross and New York University School of Law. He is a member of the firm of Kelley Drye & Warren. He is an instructor for the National Institute of Trial Advocacy; a Master of the New York County Lawyers' Association American Inn of Court; a member of the President's Council of the College of the Holy Cross; and former referee for the Departmental Disciplinary Committee.

Haliburton Fales, 2d (Special Counsel to the Policy Committee)

Mr. Fales is a retired partner of the law firm of White & Case. He is a graduate of Columbia Law School, where he was on the Board of Editors of the Law Review. From 1991 to 1996, Mr. Fales was Chairman of the Departmental Disciplinary Committee. In 1983-84 he was President of the New York State Bar Association, and in 1977-78 Vice President of the Association of the Bar of the City of New York. He serves as a Special Master

at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Patricia Farren

Ms. Farren is a member of the firm of Cahill Gordon & Reindel. She graduated from Fordham University School of Law, where she was Editor of the Fordham Law Review. She is a member of the Board of Directors, the Legal Aid Society of New York; member, Executive Board, New York County Lawyers' Association; and American Inn of Court.

Rosalind S. Fink

Ms. Fink practices employment law in her own firm and as counsel to the firm of Brill & Meisel. She is a graduate of Barnard College and Yale Law School. She served as an Assistant Attorney General in New York and was the Director of the Office of Equal Opportunity and Affirmative Action at Columbia University. She is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the New York County Lawyers' Association where she has served as a member of the Board of Directors, the Executive Committee and as President.

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

Ms. Fischman is a litigation partner at Kramer Levin Naftalis & Frankel LLP. She is a graduate of Brandeis University and the Columbia Law School, where she was a member of the Columbia Law Review. She has served on the boards of the Legal Aid Society, the New York Community Trust, the September 11th Fund, the Mexican American Legal Defense Fund, and was a Commissioner of the Ethics Commission for the Unified Court System. She is currently President of the National Alliance for the Mentally Ill - NYC Metro. As an active member of the Association of the Bar of the City of New York, she has been a member of the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics and is presently on its Board of Visitors. She is a member of the American Law Institute.

Thomas Fitzpatrick

Mr. Fitzpatrick is in private practice in his own firm, engaging in white collar criminal defense. He is a graduate of Fordham Law School. He served as an Assistant United States Attorney in the Southern District of New York and as Chief of its Criminal Division. He is a member of the New York Council of

Defense Lawyers and a Fellow of the American College of Trial Lawyers.

William L. Freeman

Mr. Freeman is Vice President of Marketing & New Business Development for Crystal McKenzie, Inc., a corporate communications firm. Mr. Freeman received a BA in History and Economics at Fisk University and a Masters of Arts degree, as well as a Masters of Business Administration from Boston College.

Paul G. Gardephe

Mr. Gardephe is a member of the firm of Patterson, Belknap, Webb & Tyler, LLP, with a focus on white collar criminal defense, internal corporate investigations, and appeals. Previously, he served as Vice President and Deputy General Counsel of Time, Inc. He is a graduate of the University of Pennsylvania and Columbia University School of Law where he was a Harlan Fiske Stone Scholar. He served as an Assistant United States Attorney in the Southern District of New York, where he was Chief of the Appeals Unit of the Criminal Division. He has also served as Special Counsel to the Department of Justice on sensitive investigations.

Joseph Steven Genova

Mr. Genova is a litigation partner of Milbank, Tweed, Hadley & McCloy LLP since 1986 and serves as the firm's Director of

Public Service (pro bono programs). He is a graduate of Dartmouth College and Yale Law School. He has served and chaired numerous committees of the Association of the Bar of the City of New York, New York State Bar Association and Federal Bar Council. That service includes the City Bar's Judiciary Committee (1988-1991, Vice Chair 1990-1991); the State Bar President's Committee on Access to Justice (Co-Chair 1990-2000); and the Federal Bar Council Public Service Committee (1991 to present, Chair 1994-2000). Since 1986, he has been a mediator in the Eastern District of New York, and an arbitrator in the Southern District of New York since 1992. Mr. Genova has also written and lectured on ethical issues involving attorney trust accounts.

Alfred G. Gerosa (A member of the Policy Committee)

Mr. Gerosa earned a Bachelor's degree in Civil Engineering from the University of Virginia. He is Chairman of the New York College of Podiatric Medicine and the Executive Committee of the Building Trades Employers' Association. Mr. Gerosa also serves on the following trust funds as employer representative: Local 780 Cement Masons; Local No. 46 Metal Furring and Lathing; the Cement & Concrete Workers, and the Operating Engineers Local 14. He is President of the New York Concrete Construction Institute, Inc. and the Concrete Alliance.

Martin R. Gold (Special Counsel to the Policy Committee)

Mr. Gold is a partner in the firm of Sonnenschein Nath & Rosenthal. From 1965 to 1968, he was an Assistant United States Attorney in the Southern District of New York. Mr. Gold has been an adjunct Professor of Law at Cardozo Law School and is a member of the boards of the Lawyers' Committee for Civil Rights Under Law and New York Lawyers for the Public Interest.

Robert L. Haig (A member of the Policy Committee)

Mr. Haig is a partner at the law firm of Kelley Drye & Warren LLP. He was the President of the New York County Lawyers' Association from 1992 to 1994. Mr. Haig was the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York from 1989 to 1992 and also chaired that Association's Council on Judicial Administration from 1996 to 1999. He was a member of the New York State Bar Association's Executive Committee from 1991 to 1994; was the founder and first Chair of that Association's Commercial and Federal Litigation Section; and also chaired its Committee on Federal Courts. He was the President of the New York Bar Foundation from 2003 to 2006. Mr. Haig is the Co-Chair of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye to create and refine the Commercial Division of the New York State Supreme Court. He has also been active in efforts to create business courts in many other states and countries. Mr. Haig is the

Editor in Chief of a five-volume treatise, entitled Commercial Litigation in New York State Courts, and of two other multi-volume treatises.

William E. Hammond

Mr. Hammond is with the firm of Kudman Tractman Aloe LLP, where he is engaged in corporate law. He is a graduate of Yale University, Columbia University Business School, and the Benjamin N. Cardozo School of Law. He is a member of the Association of the Bar of the City of New York where he serves as Chairman of the Committee on Alcoholism and Substance Abuse and is a member of the New York State Bar Association Committee on Lawyer Alcoholism and Drug Abuse.

Patricia Handal

Mrs. Handal has a B.A. from Barat College in Lake Forest, Illinois. She has taught in both Ohio and New York. For nearly twenty years she was employed by Victor B. Handal, Inc., a children's apparel company, and served on the company's board. Mrs. Handal has been active in a variety of community organizations involving children, the homeless, the elderly and the Catholic Diocese. She is currently a member of the Board and Executive Committee of the Mary Manning Walsh Home, a nursing home, and is the President of The Floating Hospital, a century-old organization dedicated to caring for children.

Patricia Hatry

Ms. Hatry, a partner in the law firm of Davis & Gilbert, is a graduate of Wellesley College and Columbia Law School. She has served as a Civil Court Small Claims Arbitrator on various committees of the Association of the Bar of the City of New York, and as a member of the boards of various charitable organizations.

Patricia M. Hynes

Ms. Hynes is a member of the firm of Allen & Overy, LLP, where she is involved in commercial litigation. She received her law degree from Fordham Law School where she was a member of the Law Review. Ms. Hynes served as law clerk to Joseph C. Zavatt, Chief Judge of the United States District Court for the Eastern District of New York, and was an Assistant United States Attorney in the Southern District of New York from 1967 to 1982, where she held several executive positions, including Executive Assistant United States Attorney.

A Fellow of the American College of Trial Lawyers, Ms. Hynes has been included in the list of Best Lawyers in America since 1993 and also in the National Law Journal's Profile of America's Top 50 Women Litigators (December 17, 2001), and its Survey of The Fifty Most Influential Women Lawyers in America (March 30, 1988).

Ms. Hynes currently chairs the Merit Selection Panel for Magistrate Judges for the Southern District of New York, and since December 2003, has been Chair of the Board of Directors of the Legal Aid Society. Ms. Hynes also has served as Chair of the American Bar Association's Standing Committee on the Federal Judiciary from July 2000 to August 2001, having previously served as the Second Circuit Representative on that Committee from 1995 to June 2000.

Alan R. Kaufman

Mr. Kaufman is a partner in the firm of Buchwald & Kaufman where he is principally engaged in white collar criminal defense work and represents clients who are under investigation by the Securities and Exchange Commission. He is a graduate of Lehigh University and New York University School of Law. Following his graduation he served as a law clerk in the United States Court of Appeals for the Sixth Circuit. He joined the United States Attorney's Office in the Southern District of New York in 1973, where he served as Chief of the Official Corruption Unit and Chief of the Organized Crime Strike Force Unit. In 1980, he and Donald Buchwald left the U.S. Attorney's Office and formed Buchwald & Kaufman. In 1999 he returned to the United States Attorney's Office as Chief of the Criminal Division where he served until 2002, and then rejoined his firm.

Stephen E. Kaufman

Mr. Kaufman is in private practice in his own firm, engaging in general civil and criminal litigation. Having received his law degree from Columbia University, he served as an Assistant United States Attorney, Southern District of New York, where he later became Chief of the Criminal Division. He is a member of the Association of the Bar of the City of New York, American Bar Association, and Fellow, American College of Trial Lawyers.

John J. Kenney

Mr. Kenney is a graduate of Fordham University School of Law and is a partner with the firm of Hoguet, Newman, Regal & Kenney. He served as an Assistant United States Attorney, Southern District of New York and as Executive Assistant United States Attorney. He is a member of the Association of the Bar of the City of New York, New York State and the American Bar Associations, and the New York County Lawyers' Association.

David G. Keyko

Mr. Keyko is a partner in the firm of Pillsbury Winthrop Shaw Pittman, where he practices in the areas of antitrust law and related litigation. He is a graduate of Yale University and received his law degree from New York University. He is a member of the board of directors of MFY Legal Services, Inc.

Myron Kirschbaum (A member of the Policy Committee)

Mr. Kirschbaum is a partner in the firm of Kaye Scholer, LLP, where he is engaged in complex business litigation and securities and insurance law. He received his law degree from Harvard University where he was editor of the Harvard Law Review. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit.

William Francis Kuntz, II (Special Counsel to the Policy Committee)

Dr. Kuntz is a member of the firm of Baker & Hostetler LLP. He is a graduate of Harvard Law School and holds a Ph.D. in History from Harvard, as well. He is a member of the Executive Committee of the Association of the Bar of the City of New York; a member of the New York County Lawyers' Association; the New York State Bar Association; the American Bar Association; the Metropolitan Black Bar Association; and the Brooklyn Bar Association. He is a Commissioner and past Chairman of the Civilian Complaint Review Board of the City of New York. He is involved in pro bono activities, as a member of the Board of Directors of the Legal Aid Society of the City of New York, and the Brooklyn Hospital Corporation and Advisory Committee on Civil Practice in the State of New York. He is director of the Federal Bar Foundation for the Second Circuit, and a trustee of the Practising Law Institute.

Andrew M. Lawler

Mr. Lawler has his own law firm focusing on representing clients in federal and criminal regulatory investigations, trials and appeals, as well as corporate internal investigations. He is a graduate of Fordham College and Fordham Law School. He is a Fellow of the American College of Trial Lawyers, New York; the National Association of Defense Lawyers; the Federal Bar Council; the American Bar Association; and the Association of the Bar of the City of New York.

Marvin Leffler (A member of the Policy Committee)

Mr. Leffler has been president of Town Hall Foundation for the past 20 years. His principal activities and positions include: trustee associate, New York University; member of Mayor's Midtown Citizens Committee; Panelist, American Arbitration Association; President (retired), Flexible Fabricators, Inc.; member, New York Regional Board Anti-Defamation League; former Chairman of the Board, National Council of Sales Organizations; past Co-Chair and Director, NYU Alumni Association; author of Sales Books published by Prentice Hall and Lecturer; listed in Who's Who in the East.

Hon. Alfred D. Lerner (A member of the Policy Committee)

Judge Lerner is formerly the Presiding Justice of the Appellate Division, First Department, where he also served as an

Associate Justice. At present, he is counsel to the firm of Phillips Nizer, LLP where he concentrates his practice on appellate matters. Judge Lerner attended the City University of New York, Hunter College, and received his law degree from New York Law School.

Frank J. Loverro

Mr. Loverro is in private practice with a focus on criminal and housing law. He is a graduate of Bernard Baruch College and New York Law School. He is currently the Chairman of the Board of the Bronx County Bar Association where he is Chairman of the Housing Committee and a member of the Criminal Courts Committee. He is also a member of the Columbian Lawyers, Black Bar Association of Bronx County, and Metropolitan Women's Bar Association.

Mary B. Maquire

Ms. Maquire is a partner in the firm of Ebusinessware, Inc. She is a graduate of Yale University and St. John's University, M.B.A. (Finance), and has also received honorary degrees from St. John's University and Marymount University. Ms. Maquire is a member of the Vatican Delegation to the United Nations; the Financial Advisory Committee, Carmelite Sisters Healthcare Network; Ireland-American Economic Advisory Board; and Trustee, St. John's University.

Douglass B. Maynard

Mr. Maynard is a graduate of Yale University and New York University Law School. He is a partner in the firm of Akin Gump Strauss Hauer & Feld. His practice focuses on libel and media cases, complex civil litigation and white collar defense matters. He served as Assistant United States Attorney, United States Attorney's office, Southern District of New York.

Charles C. Marino

Mr. Marino is a licensed professional engineer and president and owner of AMCC Corporation, which is involved in large public works construction projects. He has a Civil Engineering degree from Lehigh University and an M.A. from the University of Missouri.

John W. McConnell

John W. McConnell is a graduate of Harvard College and Harvard Law School. He served as an assistant in the Office of the Secretary of the Governor of New York; as an Assistant Attorney General and Deputy Solicitor General in the Office of the New York State Attorney General, and as an Executive Assistant to the Presiding Justice of the Appellate Division, First Department. He is currently a partner in his own firm, primarily engaged in commercial litigation and appellate

practice. He is a member of the Association of the Bar of the City of New York.

Lawrence D. McGovern

Mr. McGovern is an administrative law judge with the City of New York and a securities arbitrator. He graduated from Fordham University School of Law, LL.B. and New York University School of Law, LL.M. He is a member of the Board of Governors of the New York State Attorney-Client Fee Dispute Resolution Program and a member of the Association of the Bar of the City of New York where he served on the Administrative Law and the Alternative Dispute Resolution Committees.

Harold F. McGuire, Jr.

Mr. McGuire is a member of the firm of Entwistle & Cappucci. He graduated from Princeton University (A.B.), and received his law degree from Columbia University. He served as Assistant U.S. Attorney, Southern District of New York, and as Special Agent to Report to U. S. District Court, District of Columbia, on International Systems and Controls Corporation. He is a member of the Association of the Bar of the City of New York; New York State and the American Bar Associations, and Federal Bar Council.

Robert J. McGuire

Robert J. McGuire is a graduate of Iona College and St. John's University Law School where he was Editor in Chief of the Law Review. He also has a LL.M. from New York University Law School. He served as an Assistant United States Attorney in the Southern District of New York from 1962 to 1966. He subsequently became a partner in his own firm, McGuire and Lawler, with an emphasis on white collar investigations and defense. In 1978 he was appointed Police Commissioner of the City of New York and served until 1983. Thereafter, he served as Chairman and Chief Executive of Pinkerton's Inc., and subsequently, President of Kroll Associates, an international investigation firm. He has served on many Boards and Commissions and is currently the President of the Police Athletic League.

Fitzgerald Miller

Mr. Miller is a financial adviser with the firm of Merrill Lynch. He holds a B.A. from Bernard Baruch College. He has served as a financial consultant at AXA Advisors, LLC, and Prudential Securities and as principal of Fitzgerald Miller, DBA Global Visions, where he developed business and marketing plans to help small businesses raise funding and improve operations. He also authored and independently published, Your Complete and Comprehensive Guide to the SBA Guaranteed Loan Program.

Charles G. Moerdler

Mr. Moerdler is a member of the firm of Stroock & Stroock & Lavan, LLP. He graduated from Fordham University Law School where he was an Editor of the Law Review. He is a member and former Chairman of the Committee on Character and Fitness in the First Department. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the American Bar Association.

Mathias E. Mone

Mr. Mone is a graduate of Villanova University and Fordham Law School. He is senior counsel in the firm of Cahill Gordon & Reindel. His practice was devoted almost entirely to civil litigation in both the state and federal courts. Since taking senior counsel status, he acts as volunteer arbitrator with the National Association of Security Dealers.

Lynn K. Neuner

Ms. Neuner is a member of the firm of Simpson Thacher & Bartlett LLP. She practices in the areas of insurance coverage, securities, false advertising and complex commercial litigation. She graduated from Yale Law School, where she is a member of the Board of Directors of the Yale Law School Alumni Fund. She is a member of the Association of the Bar of the City of New York, where she is a member of the Federal Courts Committee, the New

York State Bar Association, and the American Bar Association, where she is Co-Chair of the Property Insurance Sub-Committee of the Insurance Coverage Litigation Committee.

Frederic S. Newman

Mr. Newman is a founding partner of the firm of Hoguet Newman Regal & Kenney where he is engaged in commercial litigation and business counseling. He is a graduate of Harvard College and received his law degree from Columbia Law School. Before founding his present firm he worked as a litigation associate at White & Case and served as Assistant General Counsel, Vice President, and General Counsel of Philip Morris, USA. Mr. Newman has served on various boards of civic and non-profit institutions and currently serves on ad hoc committees on the future of thoroughbred racing in New York State.

Jane W. Parver

Ms. Parver is a partner at the law firm of Kaye Scholer LLP. She has served as an Assistant United States Attorney for the Southern District of New York; member, New York City Conflicts of Interest Board, appointed by former Mayor Rudolph W. Giuliani; and Referee, New York State Commission on Judicial Conduct. She established and now oversees the Susan Price Carr Scholarship Committee, and serves on the New York Council of Defense Lawyers, and Federal Bar Council.

Anthony M. Radice

Mr. Radice is a member of the firm of Morrison & Foerster, LLP, where he practices litigation in the area of intellectual property. He is a graduate of Cornell University and Cornell Law School. He is a mediator in the Southern District of New York Mediation Program and a former Trustee of the Federal Bar Council.

Roy L. Reardon (Special Counsel to the Policy Committee)

Mr. Reardon is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association; the New York State Bar Association, and the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Timothy G. Reynolds

Mr. Reynolds is a partner in the firm of Skadden Arps Slate Meagher & Flom LLP. He graduated from Fordham University School of Law. His practice includes matters involving insurance, insurance litigation, reinsurance, and arbitration. Additionally, Mr. Reynolds has worked on the successful constitutional challenge in the United States Supreme Court to the Connecticut and New Mexico beer price regulations and statutes. He has also written many articles which include "The

Speedy Trial Acts, An Empirical Study," Fordham Law Review; and "Punitive Damages in Florida Product Liability Action: A Reexamination," Florida Trial Advocate Quarterly.

Martin S. Rothman

Mr. Rothman is a graduate of Cornell University and received his J.D. degree from New York University. He is a partner in the firm of Seligson, Rothman & Rothman. He has lectured in New York practice, appellate practice and tort law.

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Mr. Samuel is a partner in the firm of Calotta Levine & Samuel in New York City. He is a graduate of Brooklyn Law School and is a member of the New York County Lawyers' Association and the New York State Trial Lawyers Association.

Augustin J. San Filippo

Mr. San Filippo graduated from New York University School of Law. He is currently in private practice in the firm of Augustin J. San Filippo, P.C. His extra-curricular activities for the bar include: Chair, Joint Conference Committee on Court Congestion and Related Problems; Medical Malpractice Panel, First Department; Moot Court Judge, New York University School of Law; Secretary, New York State Bar Association Judicial Administration

Committee; and many committees of the Association of the Bar of the City of New York.

Samuel W. Seymour

Mr. Seymour is a partner in the firm of Sullivan & Cromwell where he practices in the area of complex litigation. He received his law degree from Columbia University and served as an Assistant United States Attorney in the Southern District of New York.

John S. Siffert

Mr. Siffert graduated from Amherst College, cum laude, and Columbia Law School. Mr. Siffert was law clerk to Hon. Murray I. Gurfein, United States District Judge for the Southern District of New York, and served as an Assistant United States Attorney in the Southern District of New York. He is a Fellow of the American College of Trial Lawyers and is Chair of its New York Downstate Committee. He is Chair of the Federal Legislation Committee of the Association of the Bar of the City of New York. He is Secretary to the New York Lawyers for Public Interest and serves on the Board of the New York Council of Defense Lawyers. He is a mediator for the United States District Court for the Southern District of New York and a Special Master for the First Department. Mr. Siffert has been on the adjunct faculty of New York University Law School since 1979 and currently holds the

academic appointment of Adjunct Professor. Mr. Siffert has co-authored Business Crime (Matthew Bender 1981), Modern Federal Jury Instructions - Criminal (Matthew Bender), and Modern Federal Jury Instructions - Civil (Matthew Bender).

Marian E. Silber

Ms. Silber is a member of the firm of Gordon & Silber, P.C. focusing on issues of professional liability, construction law product liability and toxic torts. A graduate of Connecticut College, she received her law degree from Fordham University School of Law. She is a member of the Association of the Bar of the City of New York, as well as other bar associations.

Eugene P. Souther

Mr. Souther is senior counsel to the firm Seward & Kissel. He received an LL.B. from Fordham University School of Law. Mr. Souther is a Fellow of the American College of Trial Lawyers and served on the New York Downstate Committee of the College; was president of the New York County Lawyers' Association; served in the House of Delegates of the New York State Bar Association; a delegate to the House of Delegates of the American Bar Association; and Vice Chairman of the International Bar Association.

Christine Collins Tomas

Ms. Tomas is a vice president of Goldman Sachs & Co. where she is engaged in U.S. international equity sales. She graduated from Harvard University in 1992, and received a Masters of Business Administration in 1997 from the MIT Sloan School of Management.

John L. Warden

Mr. Warden is a member of the firm of Sullivan & Cromwell. He is a graduate of Harvard University and the University of Virginia Law School. He is a member of the American Law Institute and a Fellow of the American College of Trial Lawyers.

Stephen L. Weiner (Special Counsel to the Policy Committee)

Mr. Weiner is in private practice in his own firm. He is a graduate of Columbia College and also received his law degree from Columbia University. He was formerly Chairman of the New York State Commission of Investigation. He is a member of the Association of the Bar of the City of New York; New York State Bar Association; the American Bar Association; and a member of the Board of Directors of the Legal Aid Society.

Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as Second Language in East

Harlem. Later, she was a paralegal and administrator at the law firms of Stroock Stroock & Lavan, Reid & Priest, and Cravath Swaine & Moore. She currently donates much of her time to a variety of civic, cultural and charitable organizations.

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a "respondent." Some 3485 matters were opened in 2006, primarily from clients, but also from other attorneys, and members of the public at large. In relatively few cases, the Committee opened sua sponte investigations based on information which appeared in judicial opinions, professional journals, and referrals from the judiciary or other sources.

Each complaint is date-stamped, numbered and entered into the Committee's computer system, which generates a printout of the respondent's disciplinary history with the Committee, as well as current information from the respondent's registration with the Office of Court Administration. The complaint is then screened by a senior staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, or whether it should be referred to another public agency or disciplinary committee. If it appears that there is no substantial misconduct, but there has been a breakdown of communication between the lawyer and the client, staff may refer the matter for mediation by the mediation panel of the New York County Lawyers' Association, the Association of the Bar of the City of New York, or the Bronx County Bar Association.

The screening attorney may also recommend rejection of a complaint for any one of several reasons; e.g., the complaint fails to allege a violation of the Code; the complaint seeks legal advice; is an attempt to collect a debt; or involves a fee dispute. In 2002, a mandatory mediation program was instituted to deal with fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of more than \$1,000 and less than \$50,000.

If the complaint involves allegations which will be decided in pending litigation, the Committee may, but need not, defer the matter pending resolution of the litigation. Because the allegations may be decided in the litigation and a judgment may be binding on the respondent, the Committee may decide to close the matter, without prejudice to reopening it later, after resolution of the underlying litigation. That decision must be approved by a lawyer member of the Committee. Similarly, if it appears that the complaint on its face has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

If it appears from the complaint that serious misconduct has occurred, the screening attorney brings the matter to the attention of the Chief Counsel or the First Deputy Chief Counsel for direct assignment to a staff attorney for expedited action. During the initial screening, a matter may also be directly

assigned to a staff attorney investigating other complaints involving the same respondent.

Following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who files an answer to the complaint, and from the complainant who is sent a copy of the respondent's answer for a reply. The paralegal then writes a summary of the allegations and defenses and refers the file to a senior staff attorney who performs a "second screening" or further evaluation of the complaint, answer and reply. The second screener may also recommend referral to mediation at this point. If the second screener recommends dismissal, a lawyer member of the Committee reviews that recommendation together with the paralegal's written summary and a draft letter to the complainant explaining why the case is being closed. A matter that warrants additional investigation is forwarded to the Chief Counsel for review and assignment to a staff attorney.

The staff attorney who is assigned to the matter may obtain further documentation, using subpoenas when necessary, interview witnesses, including the complainant, and may question the respondent on the record and under oath.

When the investigation is complete, the staff attorney recommends dismissal, an admonition (which is private discipline), or formal charges. Again, all dismissal

recommendations are independently considered by a Committee member, who must approve the recommendation before it is implemented. The closing letter to the complainant indicates the right to request reconsideration of the dismissal within thirty days.

Dispositions

Admonitions

The Committee issues a Letter of Admonition when an investigation reveals that a lawyer has violated the Code of Professional Responsibility, but not seriously enough to warrant a more severe sanction. For example, an admonition might be issued if a lawyer neglected one legal matter but the client was not seriously injured.

Although it is private and remains confidential, an admonition is a finding of misconduct and becomes a part of the lawyer's permanent disciplinary record, and may be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct (see, 22 NYCRR §605.5[b]). A staff lawyer's recommendation to issue an admonition is reviewed by a supervisor and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible proof of misconduct because if an attorney refuses to accept the admonition, he or she may request

that formal charges be brought. In that case, staff must be able to prove the misconduct before a Referee and a Hearing Panel. In 2006, the Committee issued 75 Letters of Admonition, covering 90 separate complaints. (An admonition may be based on more than one complaint against a respondent.)

Proceedings on Formal Charges

A staff lawyer's recommendation that formal charges be filed must be based on a demonstration of misconduct and approved by the staff lawyer's supervisor, the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, the right to counsel, the right to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two parts, liability and sanction. Most cases also involve liability and sanction briefs. When the hearing is concluded, the Referee must file a written report within sixty days containing findings of facts, conclusions of law and, if a charge has been sustained, a recommendation as to sanction.

The Chairman of the Committee then refers the Referee's report to a Hearing Panel, usually consisting of four lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews the full record of the proceedings as well as the Referee's Report and Recommendation. It then convenes to hear oral argument to determine whether to confirm, disaffirm, or modify the findings of fact and conclusions of law in the Referee's Report and Recommendation. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue its report containing its written "Determination" within ten days after the argument or the submission of briefs, whichever is later.

A formal hearing can result in a recommendation of disbarment, suspension, public censure, private reprimand, or dismissal. The first three, which are public discipline, are imposed only by the Court; a private reprimand may be imposed by the Committee on its own or by referral from the Court (22 NYCRR §605.5[a]).

Serious Crimes

In cases where the Court has determined that a lawyer has been convicted of a crime which is not a felony but is a "serious crime" under New York law, the Court may assign the case to a Referee or directly to a Hearing Panel on the sole issue of

sanction. In the latter case, the Hearing Panel itself takes testimony which is transcribed, and then renders a recommendation as to what action should be taken by the Court.

Applications to the Appellate Division

In all disciplinary matters requiring action by the Court, the Committee applies to the Appellate Division in a petition which includes the record before the Referee, describes the prior proceedings in the matter, and the Court action requested. When the Court decides the matter, it issues an order and a written opinion which is usually published in the New York Law Journal.

The Committee files a petition with the Court to confirm a Hearing Panel's Determination as to the Referee's Report and Recommendation. Staff, with permission of the Chairman, may also file a motion to disaffirm a Hearing Panel's Determination. In addition, the Committee, in certain cases, files petitions with the Court to initiate disciplinary action, rather than to confirm or disaffirm action taken by Referees and Hearing Panels. For example, the Committee may seek a court order applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Code on the basis of prior civil or criminal court decisions. The petition may be granted where the issues in the prior action and the disciplinary matter are identical to the

potential charges against a respondent who has had a full and fair opportunity to litigate in the prior proceeding.

Certain other matters are also filed directly with the Court. For example, when a lawyer fails to cooperate with a Committee investigation or when a lawyer's conduct poses an immediate threat to the public, the Committee may file a request for an interim suspension, pending a hearing under 22 NYCRR §603.4(e). And, if an attorney who has been suspended from the practice of law continues to engage in the practice of law, the Committee will petition the Court to disbar the attorney for violating its order.

In addition, the Committee files a petition directly with the Court when an attorney has been convicted of a felony in New York, or the equivalent of a New York felony in another jurisdiction (see, Judiciary Law §90[4]). Similar Committee applications are made if an attorney has been convicted of a "serious crime" as defined in §90(4)(d) of the Judiciary Law (see, 22 NYCRR §603.12); if an attorney has been found guilty of an ethical violation in another jurisdiction and "reciprocal discipline" is warranted (see, 22 NYCRR §603.3); if an attorney has violated a court-ordered suspension; or has become incapacitated due to a mental or physical infirmity (see, 22 NYCRR §603.16).

Hearings before Referees and Hearing Panels are normally closed to the public, except in those rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials in that testimony is taken and exhibits are received in accordance with the rules of evidence. A transcript is made of the entire proceeding. If the Court eventually imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness of Applicants for Admission to the Bar.

REPRESENTATIVE CASES

In 2006, the Appellate Division, First Judicial Department, publicly disciplined 65 lawyers as follows: 24 disbarments, 4 resignations from attorneys facing charges, 33 suspensions and 4 public censures. Some of the cases prosecuted by Committee staff lawyers that have become a matter of public record in 2006 are reviewed below:

Matter of Carlos Perez-Olivo, 33 A.D.2d 141 (2006).

As a result of a pattern of serious misconduct perpetrated against vulnerable clients, the Court disbarred respondent. Respondent was found guilty of fourteen (14) counts of misconduct in connection with the complaints of four (4) separate clients. The Court found that he intentionally converted \$10,000 entrusted to him by one client's family for bail purposes. He neglected the criminal appellate matter of another client and, after his client's appeal was dismissed due to respondent's neglect, respondent dishonestly induced his incarcerated client to "withdraw" her appeal because it was "frivolous" (the client did not know of respondent's prior default). The Court further found that respondent failed to render an appropriate account to a third client, for \$10,000 of her money in his possession. Finally, with respect to the fourth client, the Court found respondent guilty of requiring an illegal "non-refundable"

deposit fee, charging an excessive fee, failing to return an unearned retainer "in connection with a research on a self-created conflict issue" and failing to decline an employment opportunity which would involve a conflict of interest. The fourteen (14) sustained counts alleged violations of various Disciplinary Rules (DR) of the Lawyer's Code of Professional Responsibility: DRs 1-102(A)(4), 2-106(A), 2-106(C)(3), 2-110(A)(3), 5-105(A), 6-101(A)(3), 7-101(A)(3), 9-102(C)(3), 9-102(C)(4) and 1-102(A)(7). Finding "no extraordinary mitigating circumstances," the Court noted both respondent's intentional conversion and "(his) other misconduct" in concluding that disbarment is appropriate." (Staff Counsel Andral N. Bratton)

Matter of Jay Gordon, 36 A.D.3d 154 (2006)

Between 1999 and 2002, respondent steered a number of clients to tax shelter sponsors who in turn directly paid respondent more than \$675,000 in "referral fees." Respondent also asked one tax shelter sponsor to deposit another \$600,000 referral fee in a firm retainer account and then proceeded to convert the money into firm revenue by billing 1,120 fictitious hours. Respondent disclosed his misconduct to the firm only after he was informed that a client intended to seek compensation from both the tax shelter sponsor and the firm for losses suffered in the course of his participation in the shelters. At

the hearing, the CEO of the law firm testified, as a witness for the Committee, that respondent had neither the authority nor the firm's permission to accept such referral fees. Following the hearing, the Referee found respondent guilty of all eleven charges and recommended his disbarment. As a result, respondent submitted an affidavit of resignation where he admitted, among other things, that he had informed neither his clients nor his firm of the "referral fees." Respondent's resignation was accepted and his name was stricken from the roll of attorneys. (Staff Counsel Raymond Vallejo)

Matter of Morton S. Robson, 31 A.D.3d 163 (2006)

Robson made misrepresentations to a European corporate investor (Regency) to induce the investor to transfer \$6.2 million into respondent's escrow account, purportedly to satisfy a lien on property owned by his client, Cresbury. Respondent was simultaneously representing Cresbury's principal shareholder before the S.E.C. in connection with very serious fraud charges. One business day after the \$6.2 million was transferred to respondent's escrow account, at the direction of his shareholder client he transferred the entire amount to a Notary's account in Canada (not Cresbury) and instructed the Notary to pay \$1.15 million to an individual with no known connection either to Cresbury or to the European investor. The European investor lost

its \$6.2 million. During this proceeding, respondent vigorously denied any misconduct and claimed he was simply following the directions of his client in order to "safeguard" the funds from an alleged threatened further lien. In finding that respondent's activities violated DRs 1-102(A)(4), 9-102(A) and 1-102(A)(7), the Court stated: "It is difficult to reconcile respondent's denial of wrongdoing with Regency's loss of \$6.2 million dollars and the virtual destruction of the value of its interest in Cresbury. This grave misconduct and egregious breach of trust should be met with the most severe sanction, that of disbarment." (Staff Counsel Andral N. Bratton)

Matter of Robert J. Pape, Jr., 31 A.D.3d 156 (2006)

Mr. Pape was disbarred on June 20, 2006 following the investigation of the report of conversion of approximately \$45,000 by means of submitting false expense and petty cash vouchers. The investigation yielded proof that Mr. Pape misappropriated approximately \$150,000 by pocketing reimbursements that he fraudulently presented as client-related.

The Court cited the Referee's conclusion that respondent "showed a brilliance in the way he expanded the 'double dip' system . . . The scheme created a host of different ways to defraud, i.e., billing two clients when neither was involved; billing a non-existing client, billing two different clients when

no evidence of appointments were in any diary or calender . . . His diverse activities in his cheating scheme seem endless." The Court stated that respondent systematically converted client and firm funds for his own personal use over a five-year period, and sustained charges including DR 1-102(A)(4). In light of the lack of mitigation in the form of extreme circumstances, the Court imposed disbarment for his "intricate pattern of deliberate thefts." (Staff Counsel Mady J. Edelstein)

Matter of Patrick Carmody, 32 A.D.3d 173 (2006)

Respondent caused approximately \$30,000 in personal telephone calls to be billed to his firm's clients without the knowledge or authorization of either the firm or the clients. Respondent was suspended from the practice of law for one year based on his misconduct and his lack of full contrition. In reaching its decision, the Court evidently concluded that respondent, who was experiencing serious personal problems during the time of his misconduct, was not motivated by greed or personal gain, but rather by his desire to conceal his personal turmoil from his firm. (Staff Counsel Vitaly Lipkansky)

Matter of Charles H. Ryans, Jr., 37 A.D.3d 40 (2006)

The Court suspended Mr. Ryans on an interim basis on December 7, 2006. The Committee had moved to suspend him based

on his persistent failure to cooperate with its investigation concerning missing escrow funds, as reported by a Supreme Court Justice and by Mr. Ryans' former client, and on uncontested evidence of professional misconduct threatening the public interest. Mr. Ryans refused to answer the complaint, failed to produce his escrow records and disregarded a judicial subpoena to appear and produce his records. The Court found that his well-documented non-cooperation "demonstrates a disregard for the judicial system and a deliberate and wilful attempt to impede the Committee's investigation into serious professional misconduct and possible criminal conduct." (Staff Counsel Mady J. Edelstein)

Matter of Glenn J. Caldwell, 27 A.D.3d 154 (2006)

Respondent, a former administrative law judge in the Parking Violations Bureau from 1991 to 1995, used his expired identification card to avoid getting parking tickets and his knowledge of the inner workings of the PVB adjudicatory process for his own gain, which the Court described as "simply appalling." Respondent blamed his occasional driver, who had died in 2002, and argued that he was prejudiced under the doctrine of laches by the Committee's failure to file charges and take a statement from the driver before his death. The Court found respondent's claim of prejudice to be speculative and self-

serving since there was no evidence that the driver would have accepted blame for Caldwell's misconduct. It found that respondent's conduct was not an instance of a mere "error of judgment," as he had argued, but rather persistent misconduct by a former judicial officer. The Court stated that the three-year suspension was appropriate because of respondent's continued inability to appreciate the seriousness of his misconduct.

(Staff Counsel LaTrisha A. Wilson)

Matter of Berthold H. Hoeniger, 36 A.D.3d 268 (2006)

Respondent borrowed \$85,000 from his client and gave her an unrecorded deed to real property. At the same time, respondent filed a mortgage application in which he failed to disclose the loan he had just received from his client as well as other facts material to his credit-worthiness. Several years later, respondent sold the property without repaying any of the debt. When the Committee deposed respondent, he invoked the Fifth Amendment privilege against self-incrimination on the advice of his counsel, knowing that an adverse inference could be drawn against him. Shortly before the Committee served him with charges, however, respondent had an automobile accident resulting in serious injuries. Respondent requested a stay in the proceedings based on his alleged physical disability. The Appellate Division granted the Committee's cross-motion for

interim suspension based on uncontroverted evidence of misconduct. (Staff Counsel Eileen J. Shields)

Matter of Lawrence B. Newman, 35 A.D.3d 23 (2006)

Respondent was suspended on an interim basis pursuant to 22 NYCRR 603.4(e)(1)(iii) based on uncontested evidence of his professional misconduct which immediately threatened the public interest. Specifically, after the Committee received a complaint from one of his clients, the Committee audited respondent's escrow account and found that he had misappropriated approximately \$100,000 of that client's funds. The audit also showed that respondent was unable to explain approximately \$1.3 million in disbursements from his escrow account, including more than \$1 million in disbursements to himself. The Court suspended respondent, even though he opposed the Committee's motion, because the escrow account records and the Committee's forensic accounting established the misconduct. (Staff Counsel Vitaly Lipkansky)

Matter of Michael L. Marley, 29 A.D.3d 1 (2006)

Respondent was suspended for 18 months for taking a cash bail refund of \$10,000 and depositing it into his business account, without the client's knowledge or permission. Respondent argued that he thought he was entitled to all or most

of it as his fee, even though he had not communicated his claim to the client before taking the money. The Appellate Division suspended respondent for 18 months, holding that this was a non-venal misappropriation because respondent took the money in the context of his belief that he was entitled to additional fees. (Staff Counsel Eileen J. Shields)

Matter of Richard Boter, 27 A.D.3d 137 (2006)

After Respondent pleaded guilty to employing a non-lawyer for the purpose of soliciting clients, the Appellate Division deemed this to be a "serious crime" by order of September 7, 2005. Respondent, however, was evasive and unresponsive to the Committee's questions regarding how much money he paid to the non-lawyer in furtherance of the client steering scheme. Respondent also failed to submit answers to several complaints from clients and medical care providers. Finally, the Committee received notice from the Lawyers' Fund that at least seven of respondent's attorney escrow account checks to clients, totaling over \$70,000, had been dishonored. In explanation, respondent offered the excuse that he was a "sloppy" bookkeeper and kept few records. The Appellate Division, therefore, suspended respondent immediately on grounds of his failure to cooperate and uncontested evidence of misconduct, noting that his continued

practice of law might result in "rolling misappropriations" of client funds. (Staff Counsel Jeremy S. Garber)

Matter of Douglas P. Schmell, 27 A.D.3d 24 (2006)

The Court disbarred respondent for intentional conversion of a client's settlement proceeds, mishandling of other client funds and improperly maintaining his escrow account. Specifically, respondent intentionally converted an elderly client's settlement funds and disbursed the funds only after her niece threatened to report him to the bar association. Also, the attorney engaged in a pattern of misappropriating funds belonging to twenty-two other clients by permitting his escrow account to drop below the amount of money due to each of them. Further, respondent improperly maintained his escrow account by commingling his personal funds with client funds on numerous occasions and by failing to maintain required bookkeeping records of his escrow account. Respondent also helped a client to evade various liens, child support payment, and alimony payments by disbursing money to him in cash. The Court stated that "virtually without exception and absent extreme mitigating circumstances, that attorneys such as respondent who have intentionally converted client funds have committed serious professional conduct which warrants the sanction of disbarment." (Staff Counsel Jun Lee)

A.D.3d 192 (2006)

Respondents are brothers, who essentially inherited the solo law practice of their late father. Anthony falsely notarized his own application for admission to the Bar and falsely testified about it at a deposition with the Committee Staff. He also held himself out as an attorney and engaged in the unlawful practice of law prior to his admission. The Court suspended Anthony for three years.

Christopher falsely testified at a deposition and then again before the Referee about the notarization of his brother's application for admission to the Bar, and he notarized signatures on medical authorizations on dates when the affiant did not appear before him. He neglected a client matter and was ultimately responsible for its dismissal. Even though neither brother had a disciplinary history, the Court noted their lack of remorse and failure to take responsibility for their misconduct, blaming their late father, even though most of their serious misconduct occurred after his death. The Court also noted the absence of any evidence of participation in community, professional, or pro bono activities. The Court suspended Christopher for eighteen months. (Staff Counsel James T. Shed)

Matter of Maurice B. Melman, 30 A.D.3d 122 (2006)

Mr. Melman was disbarred for misappropriating and converting \$17,668 from four client settlements for his own use. Although Respondent twice sought an adjournment, claiming that he had to accompany his mother for daily radiation and chemotherapy treatments, he never answered the charges. In addition to the default, extensive bank records confirmed that he converted client funds. (Staff Counsel Jorge Dopico)

Matter of Bertram Brown, 31 A.D.3d 46 (2006)

In 2005, respondent, a sole practitioner, was suspended on an interim basis from the practice of law (23 A.D.3d 56) based upon uncontested evidence that he converted escrowed real estate and estate funds which he had deposited into his personal bank account.

In 2006, the Court granted the Committee's motion to disbar respondent, inter alia, for his willful failure to comply with the interim suspension order. Specifically, the Court found, that after the effective date of his suspension, respondent had actively engaged in the unauthorized practice of law with respect to two legal matters, continued to maintain client/third-party escrow funds in his IOLA account incident to his practice of law, and in addition, had actually converted those funds. The Court also determined that respondent had otherwise failed to comply

with the order of suspension by conveying to the Court, his adversaries and his clients, the impression that he is a practicing attorney. The Court also denied respondent's request that he be permitted to resign from the bar based on an affidavit of resignation executed prior to the Committee's motion, in which he acknowledged all of the above-referenced misconduct but refused to supplement the affidavit with an acknowledgment that he had converted additional escrow funds after his interim suspension. The Court agreed with the Committee that respondent should not be permitted to resign where he has refused to acknowledge the additional allegations of misconduct and should be disbarred, based on his misappropriations of third-party funds and unauthorized practice of law while under suspension. (Staff Counsel Kevin P. Culley)

Matter of Charles C. Day, 29 A.D.3d 240 (2006)

Mr. Day was disbarred for neglecting five client matters; failing to satisfy a judgment to a client for damage caused by his neglect; failing to return the unearned portion of a fee; failing to answer five complaints; and failing to provide information and documents, including IOLA records, to the Committee. In addition, Respondent forged two court orders to cover up his neglect of client matters; did not cooperate with the Committee and, despite repeated notifications, ignored the

disciplinary proceedings. Respondent had no prior disciplinary history. (Staff Counsel Jorge Dopico)

Matter of Frank DeGrasse, 36 A.D.3d 126 (2006)

Mr. DeGrasse acted as an agent for mortgage financing companies and falsely held himself out at closings as an authorized title representative of a title insurance company. However, a review of his bank records showed that he received funds entrusted to him to establish valid security interests for the lenders and used them for his own personal interests. Respondent failed to cooperate with the Committee's investigation and was suspended on an interim basis. (Staff Counsel Kevin P. Culley and Joseph J. Hester)

Matter of Richard Pu, 37 A.D.3d 56 (2006)

This was a reciprocal discipline matter pursuant to 22 NYCRR § 603.3. Respondent was originally suspended from the practice of law for six months by the Grievance Committee for the Southern District of New York for his misconduct in representing a client in civil litigation before the Southern District. Specifically, respondent was suspended, based upon a stipulation that he signed with the Southern District Grievance Committee, for frivolous litigation tactics and for making a misrepresentation regarding a discovery issue to a Southern District Magistrate Judge and to

opposing counsel. The Appellate Division, in the exercise of its discretion in reciprocal discipline matters, suspended respondent for one year, agreeing with the Committee's view that respondent's conduct was intentionally dishonest. (Staff Counsel Vitaly Lipkansky)

Matter of Edmund D. Kahn, 28 A.D.3d 161 (2006)

This unusual case, which resulted in both the public censure and suspension of respondent, stemmed from a reciprocal discipline motion predicated upon discipline imposed on respondent in Arizona for practicing law while under suspension for failure to pay Arizona mandatory membership dues. The respondent admitted that he continually practiced law in Arizona during the entire period he claimed he was "retired" in New York. This matter is noteworthy because the Appellate Division agreed with the Committee that the attorney failed to comply with Judiciary Law §468-a by improperly asserting his status as a "retired" attorney and failing to pay his registration fees in New York since 1994, while practicing law in Arizona for compensation.

With respect to the issue of reciprocal discipline, the Appellate Division found that practicing law while under suspension constituted misconduct in New York. Although the attorney was suspended for 30 days in Arizona, for practical

reasons, the Court instead imposed public censure for that conduct. Additionally, the Court suspended respondent from the practice of law until payment of biennial fees was made. After entry of the order, Respondent moved for leave to resign nunc pro tunc, to December 31, 1993. The Court granted respondent's motion only to the extent of accepting his resignation. (Staff Counsel Angela Christmas)

Matter of Leslie S. Kohn, 31 A.D.3d 203 (2006)

Respondent was formally charged with misappropriating and converting escrow funds and with attempting to mislead the Committee by providing false explanations in his answer to one of the complaints (prior to the Committee's discovery of his misappropriations) as to why he could not promptly return funds belonging to a third party in an aborted real estate matter. The Court granted the Committee's petition to confirm, and disbarred respondent. In granting the petition, the Court rejected respondent's testimony in mitigation based upon his purported Adult Attention Deficit Disorder, which was unsupported by any expert testimony or medical records. (Staff Counsel Kevin P. Culley)

Matter of Erik Veski, 29 A.D.3d 250 (2006)

Respondent was suspended for three years as a result of his fraud involving two clients, a husband and wife. A jury in Supreme Court found respondent guilty of fraudulently inducing his clients to lend him \$222,964.69 with respect to respondent's real estate venture. A judgment was entered in the sum of \$427,625.07, which included interest. Thereafter, by Order entered on May 26, 2004, the Court granted the Committee's petition for collateral estoppel based upon the jury's verdict, found respondent guilty of violating DRs 1-102(A)(4) and (A)(7), and referred the matter to the Committee for a sanction hearing. Committee Staff requested a three-year suspension before both the Referee and the Hearing Panel (which recommended fifteen-months and three-years suspensions respectively). Noting the devastating financial impact respondent's activities had upon his clients, the Court suspended respondent for three years and directed him to make monetary restitution to his clients in the sum of \$427,625.07 and, where appropriate, to the Lawyers' Fund for Client Protection (the Fund has since awarded a recovery to respondent's clients). (Staff Counsel Andral N. Bratton)

Matter of Steven A. Kirschenbaum, 29 A.D.3d 96 (2006)

The respondent, the administrative partner at a mid-sized law firm, was disbarred for repeated violations of DR 9-102(A)

and DR 1-102(A)(4). Respondent's misconduct involved the intentional conversion of funds maintained in a dormant escrow account and the submission of fraudulent expense reimbursement requests. (Staff Counsel Steven P. McGoldrick)

SUMMARY OF OTHER REPRESENTATIVE CASES

To those interested in the work of the Committee, it may appear that the Committee is primarily engaged in bringing formal charges of misconduct and conducting hearings on those charges. Those are obviously important functions of the Committee but only a part of the picture. Most of the Committee's work is done completely in private, such as the investigation and resolution of the majority of the complaints filed with the Committee, but a large portion of what the Committee does in a confidential manner eventually does become public when the Court acts on motions made by the Committee. Interim suspensions are one such area.

Interim Suspensions

The Court's rules provide that an attorney may be suspended from the practice of law pending consideration of charges against the attorney for: (1) a default in responding to pending charges of professional misconduct or to comply with lawful demands made in connection with an investigation; (2) a substantial admission under oath that the attorney has committed an act of professional misconduct; (3) other uncontested evidence of professional misconduct; or (4) willful failure to pay money owed to a client evidenced by a judgment or other clear and convincing evidence.

The most serious misconduct the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The First Department has made it quite clear that the intentional conversion of money held as a fiduciary or for a client requires disbarment except where there are exceptional mitigating circumstances, which are very rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff will seek an immediate suspension for such misconduct if it has the evidence to justify the motion. In addition, the Committee's staff will seek a suspension of an attorney who fails to cooperate in answering a complaint or not complying with lawful demands for information. In 2006, the Court suspended twelve lawyers on an interim basis pending resolution of the charges against them in the following cases: Matter of George S. Balis, 32 A.D.3d 66; Matter of Richard Boter, 27 A.D.3d 137; Matter of Eric A. Klein, 28 A.D.3d 102; Matter of Israel G. Grossman, 29 A.D.3d 85; Matter of Walter A. Murawinski, 30 A.D.3d 129; Matter of Mercedes Medina, 33 A.D.3d 250; Matter of John E. Fasciana, 35 A.D.3d 9; Matter of Barry I. Spiegler, 33 A.D.3d 187, Matter of Francis N. Sowah, 35 A.D.3d 55; Matter of Frank DeGrasse, 36 A.D.3d 126; Matter of Jose R. Martinez, 37 A.D.3d 103, and Matter of Lawrence B. Newman, 35 A.D.3d 23.

The Court also has a rule unique to the First Department [22 NYCRR § 603.4(g)], whereby a motion to suspend may also include a

notice to the attorney that, if the attorney is suspended and fails to appear or apply in writing to the Court requesting a hearing or reinstatement within six (6) months, the attorney may be disbarred. In 2006, the First Department invoked 22 NYCRR §603.4(g) to disbar two attorneys: Matter of Joseph J. Pierini, 29 A.D.3d 73, and Matter of Baird Cuber, 30 A.D.3d 79.

Felony Disbarments

In 2006, the First Department granted nine motions to strike the names of attorneys convicted of felonies: Matter of Joel A. Silberman, 31 A.D.3d 21; Matter of David A. Appell, 27 A.D.3d 81; Matter of Olga Sorkin, 28 A.D.3d 23; Matter of Afi Drake, 30 A.D.3d 39; Matter of James P. Cornelio, 29 A.D.3d 55; Matter of Robert S. Grossman, 33 A.D.3d 1; Matter of Fredric R. Zarkin, 31 A.D.3d 133; Matter of Joshua J. Just, 38 A.D.3d 58, and Matter of Michael Mann, 38 A.D.3d 87.

Resignations

The Court permits an attorney to resign from the bar during an investigation by the Committee or after the filing of charges if the attorney submits an affidavit in compliance with 22 NYCRR §603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. In 2006, the First Department accepted resignations under 22 NYCRR §603.11

from 4 attorneys and ordered their names stricken from the roll of attorneys: Matter of Thomas A. Bolan, 28 A.D.3d 172; Matter of William P. Di Salvatore, 33 A.D.3d 195; Matter of Jay I. Gordon, *supra*, and Matter of Michael L. Steindam, 36 A.D.3d 1.

Suspension as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public on an interim basis. The Court imposes suspension for conviction of "serious crimes," as defined in the Judiciary Law §90(4)(d), for reciprocal discipline and for other misconduct. In 2006, the Court imposed suspensions for misconduct on 16 attorneys for periods ranging from three months to five years: Matter of Anthony J. Fauci, 28 A.D.3d 192; Matter of Christopher J. Fauci, 28 A.D.3d 192; Matter of Glen J. Caldwell, 27 A.D.3d 154; Matter of Zoilo I. Silva, 28 A.D.3d 11; Matter of Michael L. Marley, 29 A.D.3d 1; Matter of Alexander B. Dranov, 26 A.D.3d 26; Matter of Andres M. Aranda, 32 A.D.3d 58; Matter of Erik Veski, 29 A.D.3d 250; Matter of Saul A. Berkman, 32 A.D.3d 89; Matter of Stephen J. Williams, 33 A.D.3d 38; Matter of Patrick Carmody, 32 A.D.3d 173; Matter of David W. Denenberg, 33 A.D.3d 198; Matter of Glenn A. Kiczales, 36 A.D.3d 276; Matter of H. Allen Whitehead, 37 A.D.3d 86; Matter of Edmund D. Kahn, 28 A.D.3d 161, and Matter of Richard Pu, 37 A.D.3d 56.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (22 NYCRR §605.5[a][3]). In 2006, the First Department issued public censures in three cases based on formal charges of misconduct: Matter of Darnay Hoffman, 34 A.D.3d 1; Matter of Michael M. Milchman, 37 A.D.3d 77; and Matter of Ronald M. Sims, 36 A.D.3d 304; and one reciprocal, Matter of Edmund D. Kahn, 28 A.D.3d 161.

Admonitions

The Court may also direct the Committee to issue to a respondent a Reprimand, which is private discipline imposed by the Committee after a hearing. In 2006, the Court directed the issuance of two private reprimands. Where there is no serious injury, either to a client or a court, and where there is a minor violation of a Disciplinary Rule or decisional law, the Committee itself may also issue an Admonition, which is private discipline, under 22 NYCRR §605.5(a)(5). As noted earlier, in 2006, the Committee issued 75 admonitions in 90 matters.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR §603.14 permit attorneys to apply for reinstatement to the practice of law after a period of exclusion. Attorneys who are

suspended for six months or less may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's office an affidavit stating that the attorney has met certain requirements (22 NYCRR §603.14). An attorney who has been suspended for a period of more than six months is entitled to petition the Court for reinstatement upon the expiration of the period of suspension (Id). An attorney who has been disbarred or stricken from the roll of attorneys may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (Id). The Court may refer the matter for a hearing before a Referee or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2006, the First Department granted eight petitions for reinstatement and denied six.

Registration Project

This year the Committee also undertook a project to suspend lawyers who have failed to register and pay required registration fees to the Office of Court Administration (OCA) in violation of Judiciary Law §468-a. Because of sheer volume, the delinquent attorneys were divided into four groups; the first group consisted of 1250 delinquent attorneys whose last names begin with the letters "A" through "D".

OCA provided a list of attorneys who failed to register for two biennial registration periods (four years), despite three written notices from OCA alerting them to comply. The Committee staff sent letters to each attorney by first class and certified mail allowing thirty days for them to comply. At the end of that period, the Committee notified the remaining delinquent attorneys of the Committee's motion to suspend them by publication of their names in the New York Law Journal. A database was created to manage and update the list and to coordinate the data with other disciplinary matters concerning the same attorneys.

The first phase of the project was completed with the suspension of 815 non-compliant attorneys by the Appellate Division on October 12, 2006. The second phase of the project is in progress. The project is conducted by Marcy Sterling, paralegal, Michelle Wang, computer specialist, and the

Committee's investigators and secretaries, under the supervision of Mady J. Edelstein, Principal Attorney.

Appendix A: Committee Assignments

Paul J. Curran
Chair

Policy Committee

Haliburton Fales 2d (Special Counsel)
Charlotte Moses Fischman (Special Counsel)
Martin R. Gold (Special Counsel)
William Francis Kuntz, II (Special Counsel)
Roy L. Reardon (Special Counsel)
Stephen L. Weiner (Special Counsel)
Hon. Alfred D. Lerner
Alfred G. Gerosa*
Robert L. Haig
Myron Kirschbaum
Marvin Leffler*

Hearing Panel Members

Panel I

John J. Kenney, Chair
Ann J. Charters*
Cheryl Davis
William L. Freeman*
Martin S. Rothman
John Siffert

Panel II

Christopher E. Chang, Chair
Robert J. McGuire
Lynn K. Neuner
Timothy G. Reynolds
Susan Welsher*

Panel III

Patricia Farren, Chair
Dr. Jane Eisner Bram*
Andrew M. Lawler
Harold F. McGuire, Jr.
Charles G. Moerdler

Panel IV

Samuel W. Seymour, Chair
Patricia Handal*
Patricia M. Hynes
David G. Keyko
Douglass B. Maynard

*Public Member

Panel V

John L. Warden
Thomas Fitzpatrick
Lawrence D. McGovern
Reuben Samuel
Augustin J. San Filippo
Christine Collins Tomas*

Panel VII

Mathias E. Mone, Chair
Patrick H. Barth
Joseph Steven Genova
Charles C. Marino*
Frederic S. Newman

Panel IX

Jane W. Parver, Chair
Dominic F. Amorosa
Douglas W. Brandrup
Rosalind S. Fink
William E. Hammond
Mary B. Maguire*

Panel VI

Eugene P. Souther, Chair
Lisa D. Correll*
Paul G. Gardephe
Patricia Hatry
Alan R. Kaufman

Panel VIII

Paul F. Doyle, Chair
Eugene F. Bannigan
Jean E. Davis*
Stephen E. Kaufman
John W. McConnell

Panel X

Denis F. Cronin, Chair
Frank J. Loverro
Fitzgerald Miller*
Anthony M. Radice
Marian E. Silber

*Public Member

Appendix B: Chief Counsel's Office: Attorneys

Thomas J. Cahill
Chief Counsel

Sherry K. Cohen
First Deputy Chief Counsel

Andral N. Bratton
Deputy Chief Counsel

Christine C. Anderson
Angela Christmas
Nicole Corrado
Kevin P. Culley
Jorge Dopico
Mady J. Edelstein
Jeremy S. Garber
Naomi F. Goldstein
Joseph J. Hester
Roberta N. Kolar
Jun H. Lee
Vitaly Lipkansky
Stephen P. McGoldrick
Kevin E. F. O'Sullivan
Orlando Reyes
James T. Shed
Eileen J. Shields
Judith N. Stein
Raymond Vallejo

Appendix C: Chief Counsel's Office: Staff

Investigators

Vincent C. Ranieri, Chief
George Cebisch
Virgil Cruz
John Puglise
Martin Schwinger
Michael Vega
Leonard Zarrillo

Paralegals

Rebeca V. Taub, Chief
Donna Killian
Robin Green
Joel Peterson
Marcy Sterling

Computer Personnel

Michelle Y. Wang
Charles A. Sauer

Office Manager

Carol Scheuer

Secretaries

Anna Abbate
Francine N. L. Ali
Nancy K. De Leon
Eartha Hobot
Monique Hudson
Tennille Millhouse
Celina Nelson
Hermine Otto
Gloria Rodriguez
Maria L. Vera

Receptionist

Romya Serra

Appendix D: Bar Mediators

Association of the Bar of the City of New York

Bruce D. Angiolillo, Esq.
Mark S. Arisohn, Esq.
Vivian Berger, Esq.
Joseph Calderon, Esq.
David Douglas, Esq.
Chris Stern Hyman, Esq.
Andrew D. Kaiser, Esq.
Hal R. Lieberman, Esq.

John Madden Jr., Esq.
K. Ann McDonald, Esq.
T. Gorman Reilly, Esq.
David Rubin, Esq.
Eileen Caufield Schwab, Esq.
Briscoe R. Smith, Esq.
Harvey A. Strickon, Esq.
Edward G. Williams, Esq.
Melvin F. Williams, Jr., Esq.

Bronx County Bar Association

Daniel Chavez, Esq.
Richard M. Copland, Esq.
Norma Giffords, Esq.

Jeffrey Pogrow, Esq.
Frederick B. Potack, Esq.
Cary M. Tanzman, Esq.

New York County Lawyers' Association

David A. Botwinik, Esq.
David N. Brainin, Esq.
John A. Cannistraci, Esq.
Faith Colish, Esq.
Klaus Eppler, Esq.

Alan J. Goldberg, Esq.
M. Robert Goldstein, Esq.
Hon. Millard L. Midonick
Edward E. Morris, Jr., Esq.
Joseph B. Russell, Esq.

Appendix E: Annual Report to OCA

ATTORNEY DISCIPLINE ACTIVITIESPERIOD COVERED - ANNUAL 2006

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED:*

A. Matters Pending at Start of Period	<u>1230</u>	
B. New Matters During Period	<u>4300¹</u>	
C. Closed Matters Reactivated During Period	<u>52</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>5582</u>
E. Total Matters Disposed of During Period		<u>4471</u>
F. Matters Pending at End of Period		<u>1111</u>

II MATTERS DISPOSED OF BY COMMITTEE:

	Cases**.	Matters
A. Rejected as Failing to State a Complaint	<u>824</u>	<u>861</u>
B. Referred to Other Disciplinary Committees	<u>359</u>	<u>364</u>
C. Referred to Other Agencies	<u>49</u>	<u>49</u>
D. Dismissed or Withdrawn	<u>1960</u>	<u>2075</u>
E. Dismissed through Mediation	<u>34</u>	<u>34</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>75</u>	<u>90</u>
H. Admonition (or Reprimand)	<u>0</u>	<u>0</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>932</u>	<u>998</u>
Total Disposed of During Period (same as I.E above.)	<u>4233</u>	<u>4471</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>44</u>
1. Disciplinary Proceedings	<u>31</u>	
2. Other	<u>13</u>	
B. Cases Received During Period		<u>132</u>
1. Disciplinary Proceedings	<u>66</u>	
2. Other	<u>66</u>	
C. Total to be Processed During Period		<u>176</u>

¹Includes 815 attorneys suspended for nonpayment of registration fees; also included in totals of II. I.

ATTORNEY DISCIPLINE ACTIVITIES (2006)

D.	Cases Closed		
	1. Disbarred	24	
	2. Disciplinary Resignations	4	
	3. Suspended***	33 ²	
	4. Censured	4 ³	
	5. Privately Censured	0	
	6. Remanded to Disciplinary Committee	12	
	7. Discontinued	3	
	8. Dismissed	0	
	9. Reinstatements Granted	8	
	10. Reinstatements Denied	6	
	11. Non-Disciplinary Resignations	0	
	12. All Other Dispositions	51	
	13. Total Closed		143 ⁴
E.	Total Cases Pending at End of Period		33
	1. Disciplinary Proceedings	23	
	2. Other	10	

For the purposes of this report, the term "Matter" includes the following:

1. Complaints
2. Inquiries (**Excluding telephone inquiries**)
3. Sua Sponte investigations

* In the First Dept., "matters" does not include inquiries.

**Cases refers to the number of respondent/attorneys. As some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.

***Includes (17) definite, (15) interim and (1) indefinite suspension(s)

² 1 interim suspension added (matter remanded and R suspended)

³ 1 censure added [R was suspended and censured; subsequently non-disciplinary resignation

⁴ 145 -1 vacated disbarment and -1 reinstatement relative to vacatur

Appendix F: Budget for Fiscal Year 2006-2007

Departmental Disciplinary Committee Budget
Fiscal Year 2006-2007

Appendix F: Budget for Fiscal Year 2006-2007

Departmental Disciplinary Committee Budget
Fiscal Year 2006-2007

<u>Item</u>	<u>Allocation</u>
<u>Personal Service Total</u>	\$ 3,682,307
Office Supplies	52,203
EDP Supplies	2,994
Legal Reference - General	16,291
Travel-General	6,456
Rentals of Equipment	4,202
Repairs of Equipment	11,479
Postage and Shipping	41,712
Printing - General	10,282
Telephones	36,089
Professional Services - General	15,624
Records Management services	25,000
Professional Services - Expert Witnesses	4,000
Professional Services - Interpreters	2,000
Transcript Costs - General	60,000
Computer Assisted Legal Research	1,000
Equipment - Replacement	15,000
<u>Non-Personal Service Total</u>	\$ 304,332
TOTAL BUDGET FISCAL YEAR 2006-2007	\$ 3,986,639

Appendix G: Sample Complaint

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE
61 BROADWAY, 2ND FLOOR
NEW YORK, NEW YORK 10006

212/401-0800

Thomas J. Cahill
Chief Counsel

DATE: _____

Complainant(s):

Mr. () Ms. () Mrs. () _____
Last First Initial

Address: _____ Apt. _____

_____ City State Zip Code

Telephone: Home _____ Business _____

Attorney Complained of:

Mr. () Ms. () Mrs. () _____
Last First Initial

Firm Name: _____

Address: _____ Suite/Floor _____

_____ City State Zip Code

Telephone: _____

Complaints to other agencies:

Have you filed a complaint concerning this matter with another Bar Association, District Attorney's Office or any other agency:

If so, name of agency: _____

Action taken by agency: _____

Court action against attorney complained of:

Have you brought a civil or criminal action against this attorney?

If so, name of court: _____ Index No. _____

Statute: _____

Details of Complaint PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH

Start from the beginning and be sure to tell why you went to the attorney, when you had contact with the attorney, what happened each time you contacted the attorney and what it was that the attorney did wrong. Please send this office copies of all papers that you received from the attorney with this form.

